

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

EZECHIEL ALFONSO PICARDEL,

Plaintiff,

v.

Case No. 19-cv-1180-pp

COMMISSIONER OF THE
SOCIAL SECURITY ADMINISTRATION,

Defendant.

**ORDER DENYING MOTION FOR LEAVE TO PROCEED WITHOUT
PREPAYMENT OF THE FILING FEE (DKT. NO. 2)**

The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying his claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. He also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that he has the ability to pay the filing fee. The plaintiff's affidavit indicates that he is not employed, he is married, and he has no dependents he is responsible for supporting. Dkt. No. 2 at 1. The plaintiff states income of \$3,200 per month from Unum disability for himself and \$2,000 per month in wages or salary for his spouse. *Id.* at 2. Against this \$5,200 in monthly income, he lists \$3,750 in monthly expenses (\$1,100 mortgage, \$450 car payment, \$250 credit card

payment, \$1,200 other household expenses, \$250 medication, and \$500 back taxes). Id. at 2-4. The plaintiff owns a 2008 Ford F150 truck worth approximately \$8,000 and a 2017 Ford Taurus worth approximately \$13,000; he owns a home worth approximately \$180,000 (although he does not indicate the amount of equity in the home); the plaintiff has \$100 in cash on hand or in a checking/savings account; and he owns no other property of value. Id. at 3-4. According to the affidavit, the plaintiff has a surplus of approximately \$1,400 each month after his bills and household expenses are paid, which demonstrates that he has the disposable income to pay the \$350 filing fee and \$50 administrative fee.

Because the court concludes that the plaintiff has the ability to pay the filing fee, it need not determine whether the case is frivolous.

The court **DENIES** the plaintiff's motion for leave to proceed without paying the filing fee. Dkt. No. 2. The court **ORDERS** that the plaintiff shall pay the \$350 filing fee and \$50 administrative fee by the end of the day on **September 16, 2019**. If the court does not receive the fee in full by the end of the day on September 16, 2019, the court will dismiss the case on the following business day without further notice or hearing, for failure to pay the required filing fee.

Dated in Milwaukee, Wisconsin this 19th day of August, 2019.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge